



December 6, 2019

VIA ECF

Honorable Katherine Polk Failla, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, New York 10007

MEMO ENDORSED

Re: Ventura v. Tri Tip City, LLC, et. al.
No. 19-cv-0120(KPF)

Dear Judge Failla:

Please be advised that we represent Plaintiff in this action. I write this letter to respectfully request that Your Honor extend discovery until January 31, 2019 (given the upcoming holidays).

At this time, Plaintiff's deposition was completed December 4, 2019. The parties are in the process of scheduling defendants' depositions. Counsel for Defendants Venkataswamy and Rivera, informed me that they are not available until after December 20, 2019. It should be noted that Plaintiff initially noticed their depositions on July 12, 2019 for the end of September 2019. Since then, the parties have been diligent in their attempts to schedule these depositions. I attempted to obtain consent from counsel for this request, but counsel merely indicated she was 'not amenable' to me filing this motion. I asked for explanation and attempted to confer with counsel, but counsel has not responded to my emails or voicemails. This request will not prejudice this matter, as the only upcoming date is a status conference on December 19, 2019.

Thank you in advance for your consideration of this request.

Respectfully submitted,

DEREK SMITH LAW GROUP, PLLC

Zachary Holzberg, Esq.

Cc: Counsel for Defendants (via ECF)

The Court is in receipt of the above request from Plaintiff seeking an extension of the fact discovery deadline in this case. On June 21, 2019, the Court endorsed the proposed case management plan submitted to the Court by the parties. (Dkt. #45). The case management plan called for fact discovery to be completed by October 31, 2019. (*Id.*). The Court also ordered the parties to appear for a post-fact discovery conference on November 5, 2019. (*Id.*).

During the fact discovery period, counsel for Defendants wrote to the Court several times seeking the Court's intervention given Plaintiff's discovery deficiencies. (See, e.g., Dkt. #54, 59). In compliance with the Court's Individual Rules and the Case Management Plan in this case, on November 1, 2019, Defendants submitted a letter in advance of the November 5, 2019 conference. (Dkt. #73). The letter indicated that it was on behalf of Defendants only because Plaintiff's counsel had not gotten back to Defense counsel in time to submit a joint letter. (See *id.*). It also stated that fact discovery had not been completed. (*Id.*). Plaintiff did not file her own letter. (*Id.*).

In response to the Defendants' letter, the Court extended the deadline for fact discovery to December 6, 2019, and stated that "[a]ll depositions should be completed by that date." (*Id.*). Despite this order, Defense counsel was forced to write to the Court again, on November 15, 2019, to inform the Court that Plaintiff's counsel was non-responsive in attempting to schedule a date for Plaintiff's deposition. (Dkt. #74). The Court was forced to respond by issuing an order for Plaintiff to show up for her deposition. (Dkt. #75).

Plaintiff's above letter provides no explanation for why the depositions noticed for September 2019 did not occur. Further, Plaintiff states that this request "will not prejudice this matter, as the only upcoming date is a status conference on December 19, 2019." (Dkt. #77). Plaintiff's request for an extension of fact discovery does prejudice this case because the December 19, 2019 conference was to occur after fact discovery is completed. Given the history of this case, the Court is extremely reluctant to grant Plaintiff's request.

Further, while the Court appreciates the holidays in the upcoming weeks, the Court does not understand why Plaintiff's counsel needs almost two months to reschedule two depositions. Accordingly, the Court will grant an extension of the fact discovery deadline until **January 10, 2020**. If Defendants and Defense counsel are unavailable at a time prior to January 10, 2020, for these two depositions to take place, then counsel for Defendants should inform the Court. Otherwise, fact discovery will end on January 10, 2020, and the Court will not entertain any further motions for extensions. The post-fact discovery conference previously scheduled for December 19, 2019 is hereby ADJOURNED to **January 22, 2020, at 11:00 a.m.** The parties are ORDERED to submit a joint status letter in accordance with the Court's Individual Rules on or before **January 16, 2020**.

Dated: December 6, 2019
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE